IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1487 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER RAJKOT MUNICIPAL CORPN

Versus

GUJARAT PRADESH MUNCIPAL KARMACHARI MAHASANGH

Appearance:

MR KV GADHIA for Petitioner

MR TR MISHRA for Respondent No. 1

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 27/04/2001

ORAL JUDGEMENT

#. Notice of this petition has been served on the respondent, whereupon counter affidavit has been filed. The petition is taken up for admission. However, after hearing the arguments of the learned counsel for the

parties, I feel that the petition can be disposed of finally at the admission stage, inasmuch as, the controversy involved in the petition is now very much limited.

#. The order of the Conciliation Officer, Rajkot dated 16-1-2001 is under challenge. The operative portion of the order is to some extent confusing and this order was interpreted by the petitioner actually as an order passed by the Conciliation Officer directing the petitioner not to make any change in service conditions of the workman Shri Arunbhai Shamjibhai Parmar.

#. Shri TR Mishra, learned counsel for the respondent, however, points out from the reading of the impugned order that it is not actually an order passed by the Conciliation Officer. He contends that, during conciliation proceedings, no such order could be passed by the Conciliation Officer. He further points out that looking to the impugned order, it is crystal clear that it was nothing but instruction given to the petitioner not to make any change in service conditions of the aforesaid workman. Shri Mishra has also drawn my attention to Sec.33 of the Industrial Disputes Act, so also Shri Gadhiya, learned counsel for the petitioner. Shri Gadhiya contends that the Conciliation Officer had no jurisdiction to pass an order like this. Whereas, contention of Shri Mishra is that, it is only clarification and instruction given by the Conciliation Officer. He has also drawn my attention to the prayer contained in the application of the workman, where only instruction was sought. Examining the provisions of Sec.33 of the Industrial Disputes Act, I find that no order could be passed by the Conciliation Officer as argued by Shri Gadhiya. However, the purpose of the order is actually issuing instruction and clarification to the petitioner, which is clear from the following portion of the directions contained in the impugned order:

> " Therefore, it is necessary to give legal instruction and clarification. In these circumstances, instruction is given not to make any change in service conditions of the aforesaid workman Shri Arunbhai Shamjibhai Parmar."

#. Thus, it is clear that beyond clarification and instruction, keeping in view the provisions of Sec.33 of the Industrial Disputes Act, no order in the nature of direction has been passed by the Conciliation Officer in the impugned order. As such, no interference in the impugned order is required. The petition is dismissed

with the observations made in the foregoing portion of this judgment. No order as to cost.

April 27, 2001. [D.C. Srivastava, J.]

/sakkaf